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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,736	10/30/2003	Patrick R. Lancaster III	02906.0357	6347
22852	7590	10/09/2007	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			PRAKASAM, RAMYA G	
		ART UNIT	PAPER NUMBER	
		3651		
		MAIL DATE	DELIVERY MODE	
		10/09/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/696,736	LANCASTER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ramya G. Prakasam	3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 June 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 24-32, 38, 43-54, 62, 63, 65-74, 83, 86 and 173-202 is/are pending in the application.
- 4a) Of the above claim(s) 181, 188, 195, 200 and 202 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 24-32, 38, 43-54, 62, 65-74, 83, 86, 173-180, 182-187, 189-194, 196-199, and 201 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. The amendment filed on 6/19/2007 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.

### ***Claim Rejections - 35 USC § 102***

3. Claims 24-31, 38, 43, 44, 46-50, 54, 62, 65, 67-71, 83, 86, and 173 are rejected under 35 U.S.C. 102(b) as being anticipated by Becicka (U.S. Patent No. 5,098,254).

Becicka et al. '254 disclose method of building a load per claimed invention. The method comprises automatically moving products from an infeed area to a load building area (Figure 1). The method comprises defining desired area of a load to be filled with products using at least two of a height sensor 62, a length sensor 56/58, and a width sensor 64. The method comprises automatically filling the desired area with products and determining when the desired area is filled. The method comprises automatically repeating the moving and filling steps using a single logic sequence for at least two consecutive moving and depositing steps (Figure 1).

Becicka et al. '254 method comprises positioning at least one of the sensors to define respective length, width, and height of the desired area.

Becicka et al. '254 method comprises sensing the location of previously placed products and deposit new products on the previously placed products (Figure 1).

Becicka et al. '254 method comprises sensing the location of the pallet for at least the first filling cycle when the pallet is emptied.

Becicka et al. '254 method comprises setting a desired height of the load by positioning the height sensor 62 at appropriate predetermined level.

Becicka et al. '254 method comprises setting a desired length of the product load by positioning the length sensor 56/58.

Becicka et al. '254 method comprises sending sensing information from the sensors to a controller for automatically controlling the building of the load.

Becicka et al. '254 method comprises repeating the first logic sequence for at least two transporting cycles, i.e. two filled rows, and executing a second logic sequence in the controller for a different transporting cycle to provide interlocking pattern on the next layer (column 5, lines 29-34).

***Claim Rejections - 35 USC § 103***

4. Claims 32, 45, 51-53, 66, 72, 73, 74, 174-180, 182-187, 189-194, 196-199, and 201 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becicka.

5. Becicka et al. '254 disclose method for building a load per claimed invention as explained above. However, it is silent as to the specifics of adjusting the length sensor 56/58 to define the length of the product load on the load building area. Nevertheless, it would have been obvious for a person with ordinary skill in the art, at the time the invention was made, using common engineering sense, to have adjusted the Becicka et al. '254 length sensor 56/58 at any positions along the infeed/loading area to accommodate for different size product loads and pallets.

6. Becicka et al. '254 disclose method for building a load per claimed invention as explained above. However, it is silent as to the specifics of the controller comprises of more than one processor. Nevertheless, it would have been obvious for a person with ordinary skill in the art, at the time the invention was made, to have provided to Becicka et al. '254 system with more than one processors because they facilitate another equivalent means for controlling the load building

process. Using plural processors, instead of a single processor, for controlling an automatic system is commonly well known in the art.

7. It is obvious that Becicka et al. '254 controller is programmable to accommodate for the loading of different size items on different layers of a single pallet load. For example, new products having half the size of previously loaded products could be placed on a next layer row having twice as many products.

8. It is obvious that Becicka et al. '254 controller is programmable to accommodate for the loading of different size items on two different pallets. Each pallet comprises two layers of the same size products.

***Response to Arguments***

9. Applicant's arguments filed on 6/19/2007 have been fully considered but they are not persuasive.

10. With regards to applicant's argument that Becicka fails to disclose determining when the desired area is filled using at least two of the height sensor, the length sensor and the width sensor, It is clear that utilization of 62, 56/58, and 64 determines the operational data of the pallet, including whether the pallet is fully loaded (See Column 4, lines 20-50). Determining whether the pallet is loaded to a predetermined size (and area) fulfills this claim limitation, and therefore the limitation is in fact met.

With regards to applicant's argument that examiner fails to provide factual support for the obviousness rejection, the factual support is in common engineering practice. In particular, having a length sensor that is adjusted to define the length of the product load is obvious due to the fact that adjustability (in this case of the length sensor), where desirable, is a modification

that is within the skill of the art. In re Stevens, 212 F.2d 197, 101 USPQ 284 (CCPA 1954). Also, it would have been obvious to use plural processors instead of a single processor, because utilization of plural processors is commonly well known in the art. Further, a controller being used to accommodate for different size items is obvious because the fully loaded status of the pallet is determined by the sensors.

11. For the foregoing reasons, the claims stand rejected.

*Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

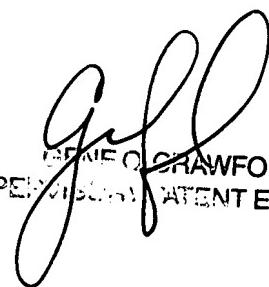
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramya G. Prakasam whose telephone number is (571) 272-6011. The examiner can normally be reached on Monday - Thursday, 8:30am-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

10/1/2007  
RGP

  
GENE Q. CRAWFORD  
SUPERVISORY PATENT EXAMINER